

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

NJOS, SANDRA)
)
 Plaintiff,)) No. 07 C 50213
)
 vs.)
)
 ROCKFORD HEALTH SYSTEM,)
 an Illinois not-for profit Corporation, and)
 ROCKFORD MEMORIAL HOSPITAL)
 an Illinois not-for-profit Corporation,)
 ROBERT ESCARZA, M.D., RHONDA)
 CASAVANT, R.N.)
)
 Defendants.)
)

THIRD AMENDED COMPLAINT AT LAW

COMMON FACTS

NOW COMES the Plaintiff, SANDRA NJOS by her attorneys, THE SZYMANSKI KOROLL LITIGATION GROUP, and complaining of the Defendants, states as follows:

1. This Court has jurisdiction of this matter based upon diversity of citizenship as contained in 28 United States Code § 1332, in that the Plaintiff, SANDRA NJOS is a citizen of the State of Wisconsin and resides in Elkhorn, Wisconsin and all individual Defendants are citizens of the State of Illinois, and each and every corporate Defendant is incorporated in the State of Illinois with the respective principal places of business of each corporate Defendant located in the State of Illinois; and as such the requirements for diversity of citizenship are met.

2. Defendant, ROCKFORD HEALTH SYSTEM, is an Illinois not-for-profit corporation, incorporated under the laws of the State of Illinois incorporated on July 29, 1982 as an Illinois corporation entitled "Rockford Health System" under Illinois Secretary of State File number 52805996, with its' principal place of business in Illinois, (and with its' corporate headquarters located at 2400 North Rockton Avenue, Rockford, Illinois) and licensed to do business in Illinois and doing such business at its' principal places of business located at 2400 North Rockton Ave and at 2300 North Rockton Avenue, Rockford, 61103.

3. Defendant, ROCKFORD MEMORIAL HOSPITAL, is an Illinois not-for-profit corporation, incorporated under the laws of the State of Illinois incorporated on December 15, 1883 as an Illinois corporation entitled "Rockford Memorial Hospital" under Illinois Secretary of State File number 02155460, with its' principal place of business in Illinois, (and with its' corporate headquarters located at 2400 North Rockton Avenue, Rockford, Illinois) and licensed to do business in Illinois and doing such business at its' principal place of business at 2400 North Rockton Avenue, Rockford, 61103.

4. Defendant, ROBERT ESCARZA, M.D. is a citizen of the state of Illinois, providing emergency medicine physician services within the State of Illinois at his principal place of business at Rockford Memorial Health System and Rockford Memorial Hospital, Rockford, Illinois. Defendant ROBERT ESCARZA, M.D. attended to the Plaintiff at 2400 North Rockton Ave, Rockford, Illinois.

5. Defendant, RHONDA CASAVANT, R.N. is a citizen of the state of Illinois, providing emergency nursing services to patients within the State of Illinois at her

principal place of business at Rockford Health System and Rockford Memorial Hospital, Rockford, Illinois. Defendant RHONDA CASAVANT, R.N. attended to the Plaintiff at 2400 North Rockton Ave, Rockford, Illinois.

6. This Court has jurisdiction of this matter based upon diversity of citizenship as contained in 28 United States Code §1332, in that the Plaintiff, SANDRA NJOS is a citizen of the State of Wisconsin. All Corporate Defendants are corporations incorporated in the State of Illinois and have their principal places of business in Illinois. Defendants Escarza and Casavant are both citizens of the State of Illinois. The matter in controversy exceeds, exclusive of interest and costs, the sum of \$75,000.00.

7. On information and belief, ROBERT ESCARZA, M.D. was at all times pertinent hereto an employee, agent or apparent agent of the Defendant ROCKFORD MEMORIAL HOSPITAL.

8. On information and belief, ROBERT ESCARZA, M.D. was at all times pertinent hereto an employee, agent or apparent agent of the Defendant ROCKFORD HEALTH SYSTEM.

9. On information and belief, RHONDA CASAVANT, R.N. was at all times pertinent hereto an employee, agent or apparent agent of the Defendant ROCKFORD MEMORIAL HOSPITAL.

10. On information and belief, RHONDA CASAVANT, M.D. was at all times pertinent hereto an employee, agent or apparent agent of the Defendant ROCKFORD HEALTH SYSTEM.

11. That on October 31, 2005 SANDRA NJOS presented to ROCKFORD MEMORIAL HOSPITAL Emergency Department complaining of abdominal pain.

12. That on October 31, 2005 ROBERT ESCARZA M.D. provided physician services to SANDRA NJOS.
13. That on October 31, 2005 RHONDA CASAVANT, R.N. provided nursing services to SANDRA NJOS.
14. That RHONDA CASAVANT, R.N. recorded in the medical records of SANDRA NJOS : "c/o "lump" in RLQ, RN unable to palpate, soft, non-tender denies urinary symptoms."
15. That RHONDA CASAVANT, R.N. did not perform a hands on examination of the body of SANDRA NJOS.
16. That ROBERT ESCARZA, M.D. ordered a urinalysis to be preformed on the urine of SANDRA NJOS.
17. That urinalysis results were obtained prior to SANDRA NJOS discharge from the ROCKFORD MEMORIAL HOSPITAL emergency department.
18. That ROBERT ESCARZA, M.D. relied on the urinalysis results in assigning a diagnosis to SANDRA NJOS.
19. That ROBERT ESCARZA, M.D. authored a dictation stating in pertinent part: "Urinalysis shows 21-50 white cells per high power field in addition to a moderate amount of bacteria."
20. That urinalysis results obtained for SANDRA NJOS state: "WBC's 0-4."
21. That urinalysis results obtained for SANDRA NJOS state: "RBC' s 21-50."
22. That ROBERT EZCARZA, M.D. failed to properly note unrinalysis test results with regards to number of WBC's and number of RBC"s respectively.

23. That ROBERT ESCARZA, M.D. did not perform a pelvic exam on SANDRA NJOS.
24. That ROBERT ESCARZA, M.D. undertook no investigation of SANDRA NJOS complaint of lump in right lower quadrant.
25. That ROBERT ESCARZA, M.D. assigned a diagnosis of "acute cystitis" to SANDRA NJOS.
26. That SANDRA NJOS was subsequently diagnosed with ovarian cancer with metastasis.
27. That SANDRA NJOS is terminally ill in that her disease is relatively unresponsive to chemotherapy.

COUNT I

ROCKFORD HEALTH SYSTEM NEGLIGENCE

NOW COMES the Plaintiff, SANDRA NJOS by her attorney's THE SZYMANSKI KOROLL LITIGATION GROUP and complaining of the Defendant, ROCKFORD HEALTH SYSTEM states as follows:

28. Plaintiff re-alleges common facts numbers 1 – 27 as allegations of this Count I.
29. That on or about October 31, 2005 ROCKFORD HEALTH SYSTEM, acting through its employees, agents and/or apparent agents, had a duty to possess and apply the knowledge and use the skill of reasonably well qualified hospital staff under the same or similar circumstances.
30. That the Defendant, ROCKFORD HEALTH SYSTEM, by and through its employees, agents and apparent agents was then and there guilty of one or more of the following negligent acts or omissions,

- a. Failed to assess SANDRA NJOS;
- b. Failed to examine SANDAR NJOS;
- c. Failed to perform a pelvic examination;
- d. Improperly interpreted urinalysis results;
- e. Assigned an incorrect diagnosis;
- f. Prescribed improper treatment;
- g. Failed to provide an opportunity for proper diagnosis;
- h. Decreased the effectiveness of treatment of SANDRA NJOS' condition;
- i. Failed to meet the standard of care in the care and treatment of SANDRA NJOS;

31. That as a direct and proximate result of one or more of the foregoing acts and/or omissions, SANDRA NJOS was injured and was deprived of an opportunity to be diagnosed and was deprived of a chance to recover from her condition and the effectiveness of any and all treatment was reduced.

32. As a direct and proximate result of one or more of foregoing acts and/or omissions, SANDRA NJOS, was injured, suffered personal and pecuniary damages and continues to suffer said damages.

WHEREFORE, the Plaintiff, SANDRA NJOS, prays for judgment against ROCKFORD HEALTH SYSTEM, an Illinois corporation, in a sum in excess of \$50,000.00 plus costs of suit.

Count II

ROCKFORD MEMORIAL HOSPITAL NEGLIGENCE

NOW COMES the Plaintiff, SANDRA NJOS, by her attorney's THE SZYMANSKI KOROLL LITIGATION GROUP and complaining of the Defendant, ROCKFORD MEMORIAL HOSPITAL states as follows:

33. Plaintiff re-alleges common facts numbers 1 – 27 as allegations of this Count II .

34. That on or about October 31, 2005 as well as all times subsequent, ROCKFORD MEMORIAL acting through its employees, agents and/or apparent agents, had a duty to possess and apply the knowledge and use the skill of reasonably well qualified hospital staff under the same or similar circumstances.

35. That the Defendant, ROCKFORD MEMORIAL HOSPITAL, by and through its employees, agents and apparent agents was then and there guilty of one or more of the following negligent acts or omissions;

- a. Failed to assess SANDRA NJOS;
- b. Failed to examine SANDAR NJOS;
- c. Failed to perform a pelvic examination;
- d. Improperly interpreted urinalysis results;
- e. Assigned an incorrect diagnosis;
- f. Prescribed improper treatment;
- g. Failed to provide an opportunity for proper diagnosis;
- h. Decreased the effectiveness of treatment of SANDRA NJOS' condition;
- i. Failed to meet the standard of care in the care and treatment of SANDRA NJOS;

36. That as a direct and proximate result of one or more of the foregoing acts and/or omissions, SANDRA NJOS was injured and was deprived of an opportunity to be diagnosed and was deprived of a chance to recover from her condition and the effectiveness of any and all treatment was reduced.

37. As a direct and proximate result of one or more of foregoing acts and/or omissions, SANDRA NJOS, was injured, suffered personal and pecuniary damages and continues to suffer said damages.

WHEREFORE, the Plaintiff, SANDRA NJOS, prays for judgment against ROCKFORD MEMORIAL HOSPITAL, an Illinois corporation, in a sum in excess of \$50,000.00 plus costs of suit.

Count III

ROBERT ESCARZA, M.D., NEGLIGENCE

NOW COMES the Plaintiff, SANDRA NJOS, by her attorney's THE SZYMANSKI KOROLL LITIGATION GROUP and complaining of the Defendant, ROBERT ESCARZA, M.D. states as follows:

38. Plaintiff re-alleges common facts numbers 1 – 27 as allegations of this Count III.
39. That on or about October 31, 2005 as well as all times subsequent, ROBERT ESCARZA, M.D. had a duty to possess and apply the knowledge and use the skill of reasonably well qualified physician under the same or similar circumstances.
40. That the Defendant, ROBERT ESCARZA, M.D., was then and there guilty of one or more of the following negligent acts or omissions;
 - a. Failed to assess SANDRA NJOS;
 - b. Failed to examine SANDAR NJOS;
 - c. Failed to perform a pelvic examination;
 - d. Improperly interpreted urinalysis results;
 - e. Assigned an incorrect diagnosis;
 - f. Prescribed improper treatment;
 - g. Failed to provide an opportunity for proper diagnosis;
 - h. Decreased the effectiveness of treatment of SANDRA NJOS' condition;
 - i. Failed to meet the standard of care in the care and treatment of SANDRA NJOS;
41. That as a direct and proximate result of one or more of the foregoing acts and/or omissions, SANDRA NJOS was injured and was deprived of an opportunity to be diagnosed and was deprived of a chance to recover from her condition and the effectiveness of any and all treatment was reduced.
42. As a direct and proximate result of one or more of foregoing acts and/or omissions, SANDRA NJOS, was injured, suffered personal and pecuniary damages and continues to suffer said damages.

WHEREFORE, the Plaintiff, SANDRA NJOS, prays for judgment against ROBERT ESCARZA, M.D., in a sum in excess of \$50,000.00 plus costs of suit.

Count IV

RHONDA CASAVANT, R.N., NEGLIGENCE

NOW COMES the Plaintiff, SANDRA NJOS, by her attorney's THE SZYMANSKI KOROLL LITIGATION GROUP and complaining of the Defendant, RHONDA CASAVANT, R.N states as follows:

43. Plaintiff re-alleges common facts numbers 1 – 27 as allegations of this Count IV.
44. That on or about October 31, 2005 as well as all times subsequent, RHONDA CASAVANT, R.N had a duty to possess and apply the knowledge and use the skill of reasonably well qualified nurse under the same or similar circumstances.
45. That the Defendant, RHONDA CASAVANT, R.N. , was then and there guilty of one or more of the following negligent acts or omissions;
 - a. Failed to assess SANDRA NJOS;
 - b. Failed to examine SANDAR NJOS;
 - c. Failed to perform an abdominal examination;
 - d. Failed to properly utilize the nursing process;
 - e. Improperly reported urine dip results;
 - f. Failed to properly communicate information to the physician;
 - g. Failed to provide an opportunity for proper diagnosis;
 - h. Decreased the effectiveness of treatment of SANDRA NJOS condition;
 - i. Failed to meet the standard of care in the care and treatment of SANDRA NJOS;
46. That as a direct and proximate result of one or more of the foregoing acts and/or omissions, SANDRA NJOS was injured and was deprived of an opportunity to be diagnosed and was deprived of a chance to recover from her condition and the effectiveness of any and all treatment was reduced.

47. As a direct and proximate result of one or more of foregoing acts and/or omissions, SANDRA NJOS, was injured, suffered personal and pecuniary damages and continues to suffer said damages.

WHEREFORE, the Plaintiff, SANDRA NJOS, prays for judgment against RHONDA CASAVANT, R.N., in a sum in excess of \$50,000.00 plus costs of suit.

SANDRA NJOS,

BY THE SZYMANSKI KOROLL LITIGATION GROUP

BY s/Cynthia Szymanski Koroll
Cynthia Szymanski Koroll

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